

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
MARCH 27, 2014**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Jeffrey Cohen, Vice Chair; Carol Amick, Clerk; Jeffrey Dearing; Michelle Puntillo; Kay Hamilton

ABSENT: Todd Crowley

Mr. Colasante read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members and assistant introduced themselves.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #026-14 – Steven Ferris, for 22 Paul Revere Road, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct addition within side yard setback.

Steven Ferris introduced himself and introduced his contractor, Richard Townsend. Mr. Townsend explained that the homeowners would like to extend the house by building an attached garage with a master bedroom suite above. He noted that the dimensions of the proposed structure were shown on the plot plan. He stated that the new addition would be 10 feet from the side yard, where 15 was required; however, the existing deck attached to the porch was already 9.7 feet from the side lot line, so this addition would not increase the pre-existing non-conformity. Mr. Townsend concluded by noting that the applicant also proposed moving the shed from its existing non-conforming location to make it conforming.

There was discussion about the dimensions shown on the plot plan and how they correlated to the shape and size of the addition.

Ms. Amick talked with the applicants about the location of the driveway.

Mr. Colasante opened the hearing to the public. With no comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante stated that this was a Special Permit application, and therefore the two requirements to grant it were that the project was in keeping with the intent and purpose of the Bylaw and was not substantially more detrimental or injurious to the neighborhood. He said the applicant was hindered by the size and shape of the lot, and

this was perhaps the most reasonable proposal for a garage that he could have submitted. The other Board members agreed.

Mr. Colasante called for a motion.

MOTION:

Ms. Amick moved to grant Steven Ferris, for 22 Paul Revere Road, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct addition within side yard setback, substantially as shown on Exhibit 1 (plot plans) and Exhibit 2 (elevation drawings).

Mr. Cohen seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, and Puntillo

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, barring any appeals, the applicant may apply for a Building Permit at the Code Enforcement Department.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #027-14 – Pamela Brown, Esq., for 224 & 226 Carlisle Road, seeks a Special Permit per Section 7.1.2 of the Zoning By-Law to reconfigure non-conforming lots.

Ms. Brown greeted the Board and explained that the proposal before the Board involved the reconfiguration of two pre-existing non-conforming lots. She stated that each of the lots currently contained a home, each of which will be demolished with a new single-family home built in its place; she said that the purpose of this proposal was to create more usable lots for the future owners of those homes.

Ms. Brown referenced the letter attached to her application (see attachment) that broke down the dimensional conditions of the two properties into “Existing” and “Proposed.” She read a section from the cover letter, which states: “The proposal reconfigures the lots to remove the frontage non-conformity at 224 Carlisle Road and with construction of a new home, the side yard structural non-conformity will also be removed. The lot at 226 Carlisle Road is undersized, but will not be reduced in size and the non-conforming front and rear yards will be corrected with the new plan. Because of the unusual shape of both lots, this reconfiguration will create a more regular building envelope for each lot.”

Ms. Brown stated that the existing area of lot #224 is 61,674 sq. ft.; however, approximately 12,296 sq. ft. is more than 500' from the lot frontage, thus the minimum buildable lot area is considered approximately 49,378 sq. ft. due to Section 6.2.1 of the Zoning Bylaw which states, "Any area of any lot more than 500 feet from the lot frontage shall not be used to satisfy any of the minimum lot area." Ms. Brown said that, because of this Bylaw section, she had come prepared with a "Plan B" option of the site plan which provides an even swap of the land. She said that Plan A was preferable because it will create a more regular building envelope for each lot.

There was extensive discussion about the shape, dimensions, and topography of the lots and the merits of Plans A and B. Mr. Cohen indicated his preference for Plan B because the land swap maintained the same lot area (not beyond 500 feet) on 224 Carlisle Road and therefore did not intensify the non-conformity.

Mr. Dearing asked whether the house footprints would remain the same in both plan scenarios. Ms. Brown replied that they would.

Ms. Amick asked whether the existing homes were under separate ownership. Ms. Brown said that they were under separate ownership but will be sold to a developer, who plans to build a new single family home on each.

Mr. Cohen stated that the Code Enforcement Director, Christopher Laskey, wrote a synopsis to the Board for every application, and in his synopsis for this application he stated that, in his opinion, Section 6.4 of the Zoning Bylaw applies here: *"...and no buildable or built-upon lot shall be sub-divided, altered or reduced except by eminent domain taking or by conveyance for a public purpose for which eminent domain taking could have been made, so as to result in a violation of the dimensional or other requirements of this bylaw."* Mr. Laskey also noted in his synopsis that he had asked Town Counsel about this opinion, and Town Counsel agreed that Section 6.4 could apply in this situation. Ms. Brown replied that Section 6.4 was not fatal because the proposal did not result in a violation of the requirements of the Bylaw, due to the existing non-conformities; both lots contain non-conformities that are protected under Mass. General Laws Section 6 and as such are non-conforming, but not violations. She stated that the proposal did not change that circumstance and in fact reduced some of the non-conformities.

Mr. Colasante opened the hearing to the public.

Bill Waterhouse, of 230 Carlisle Road, talked with the Board and the applicant about the process by which this reconfiguration becomes legal. He noted that he was in support of this application, as it could raise his own property value, but simply wanted to better understand the process involved.

Mr. Waterhouse wanted to know if the Planning Board had any jurisdiction. Ms. Brown said the Planning Board would have to review an Approval Not Required (ANR) application for the reconfigured lots.

With no further comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante stated that this was a Special Permit application, and therefore the two requirements for granting it were that the application was in keeping with the intent and purpose of the Bylaw and was not substantially more detrimental or injurious to the neighborhood.

There was extensive discussion about the pros and cons of Plans A and B, and which plan fit more into context with the requirements of a Special Permit. Mr. Colasante said he felt that Plan B was more in keeping with the intent of the Bylaw, especially after reading Mr. Laskey's synopsis and the opinion from Town Counsel. Mr. Cohen agreed. Ms. Amick said that she felt that Plan A might be a better option for the future homeowners. Mr. Dearing and Ms. Puntillo agreed. After further conversation, it was decided that the Board favored Plan B.

Mr. Colasante called for a motion.

MOTION:

Ms. Amick moved to grant to Pamela Brown, Esq., for 224 & 226 Carlisle Road, a Special Permit per Section 7.1.2 of the Zoning By-Law to reconfigure two non-conforming lots, substantially as shown on Exhibit 1 (plot plan marked "Conceptual 5").

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, and Puntillo

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board had 14 days to write a decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds.

Ms. Brown thanked the Board members for their time.

Adjournment

Mr. Colasante called for a motion to adjourn.

MOTION:

Mr. Cohen moved to adjourn the meeting.

Ms. Amick seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, Puntillo, and Hamilton

Voting against: None

Abstained: None

The motion carried unanimously, 6-0-0.

The meeting adjourned at 9:10 PM.

Angelo Colasante, Chair

Date

Respectfully Submitted,

Scott Gould
ZBA Assistant